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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,975	03/15/2005	Helene Le Buanec	P70484US0	7511

136 7590 09/01/2009

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EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 09/01/2009

Please find below and/or attached an Office communication concerning this application or proceeding.



## UNITED STATES DEPARTMENT OF COMMERCE

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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
10527975	3/15/2005	LE BUANNEC ET AL.	P70484US0

## EXAMINER

Cherie M. Woodward

ART UNIT	PAPER
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1647

20090828

DATE MAILED:

**Please find below and/or attached an Office communication concerning this application or proceeding.**

## Commissioner for Patents

The reply filed on 6/18/2009 is not fully responsive to the prior Office Action because of the following omission(s) or matter(s): Applicant has not adequately replied to the Provisional Obviousness Type Double Patenting Rejection. Applicant states that "Applicants cannot yet file a Terminal Disclaimer, as it is not yet known in which application the Terminal Disclaimer would have to be filed, or whether a Terminal Disclaimer would be required (depending on the scope of the allowed claim)" (Remarks, pp. 7-8). Applicant also argues that "any response would be premature unless and until the claims in this application and/or the other applications are indicated as allowable." (Remarks, p. 8). Applicant's remarks have been fully considered, but they are still found to be non-responsive to the rejection of record. If Applicant does not wish to file a Terminal Disclaimer over the ODP rejections, Applicant should provide arguments as to why the ODP rejections are not applicable or otherwise present arguments that respond to the rejections of record. Applicant's remarks are tantamount to a request to hold a rejection in abeyance. Such a request is not a proper response to a rejection. Only responses to objections or requirements as to form can be held in abeyance (see MPEP 714.02 and 37 CFR 1.111(b)). Applicant is required to respond to all of the rejections of record before prosecution can continue.

As such, the submission filed 6/18/2009 is not fully responsive because it is not in compliance with 37 CFR 1.111(b), which states that "[i]n order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

Since the above-mentioned reply appears to be bona fide, applicant is given ONE (1) MONTH or THIRTY (30) DAYS from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cherie M. Woodward whose telephone number is (571) 272-3329. The examiner can normally be reached on Monday - Friday 9:30am-6:00pm (EST). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on (571) 272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cherie M. Woodward/  
Primary Examiner, Art Unit 1647